

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JUNE 20, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-20464 - APPLICANT: ED PEYGHAM - OWNER: BP  
WEST COAST PRODUCTS, LLC**

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**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend APPROVAL, subject to:

**Planning and Development**

1. Conformance to the Conditions of Approval Special Use Permit (SUP-20462) and Site Development Plan Review (SDR-20461) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This application is for a Variance to allow a rear-yard setback of zero feet where 20 feet is required. This Variance is requested to allow the replacement of an existing Service Station without Automotive Repair and bring this use into compliance with the City's current traffic flow requirements. Companion applications for a Special Use Permit for a Beer/Wine/Cooler Off-Sale Establishment and a Site Development Plan Review for a Service Station without Automotive Repair will be considered concurrently.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
04/03/68	The Board of Commissioners approved a Rezoning (Z-7-68) to C-1 (Limited Commercial) including a site plan for a service station and a Special Use Permit (U-19-68) for a Service Station.
07/14/97	The City Council approved a Rezoning (Z-45-97) from C-1 (Limited Commercial) to PD (Planned Development) with a proposed use of Commercial Shopping Center with Limited Food Processing and Manufacturing Facilities on the subject site. The Planning Commission and staff recommended approval.
01/12/98	The City Council approved a request to Rescind a previous action that approved a Rezoning (Z-45-97) from C-1 (Limited Commercial) to PD (Planned Development) with a proposed use of Commercial Shopping Center with Limited Food Processing and Manufacturing Facilities on the subject site. Staff recommended approval.
11/05/98	A request for a Special Use Permit to allow a double-faced 14 foot by 48 foot Off-Premise Advertising (Billboard) Sign 40 feet in height was withdrawn without prejudice at the Planning Commission.
04/26/07	The Planning Commission held in abeyance this application along with concurrent requests for a Site Development Plan Review (SDR-20461) and a Special Use Permit (SUP-20462) at the applicants request in order to provide a bus turnout lane on Washington Avenue.
05/10/07	<p>The Planning Commission recommended approval of companion items SUP-20462 and SDR-20461 concurrently with this application.</p> <p>The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #1/rl).</p>

<b><i>Related Building Permits/Business Licenses</i></b>	
06/28/95	Active Business License #C20-01686-7-000356 for Convention Hall Gaming Tax issued to United Coin Machine on the subject site.
06/28/95	Active Business License #G01-01686-4-000356 for Gaming Restricted issued to United Coin Machine on the subject site.
12/02/02	Active Business License #P35-00138-0-082740 for an Outdoor Pay Phone issued to Custom Communication on the subject site.
12/03/02	Active Business License #P35-00385-0-07230 Outdoor Pay Phone issued to Golden Telephone, Inc. on the subject site.
12/03/02	Active Business License #P35-00386-0-07230 Outdoor Pay Phone issued to Golden Telephone, Inc. on the subject site.
08/30/05	Active Business License #C05-01289-b-034615 for Tobacco Dealer – Retail issued to Ed’s Decatur AM PM on the subject site.
08/30/05	Active Business License #C15-00087-3-034615 for a Convenience Store issued to Ed’s Decatur AM/PM on the subject site. This issuance is a reclassification of a previous License G05-01147 for Groceries/Food Products.
08/30/05	Active Business License #L10-00086-4-000622 for Beer/Wine/Cooler off-sale issued to Ed’s Decatur AM PM on the subject site. This issuance is a reclassification of a previous License L-04-00922 for alcohol sales..
02/21/07	Pending Business License #C20-96705-7-000356 for Convention Hall Gaming Tax approved by City Council for Ed’s Decatur AM PM on the subject site.
02/21/07	Pending Business License #G01-96704-4-000356 Gaming Restricted approved by City Council for Ed’s Decatur AM/PM on the subject site.

<b><i>Pre-Application Meeting</i></b>	
03/02/07	A pre-application meeting was held to discuss the requirements for this and related applications. Included in the discussion was the underground fuel tank, and a need to verify that any on-site cross-access agreements would not be disrupted by changes to the site.

<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required for this application, nor was one held.	

<b><i>Field Check</i></b>	
04/05/07	A field check was conducted to ascertain current conditions on the subject site.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.70
Net Acres	0.68

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Service Station without Auto Repair	SC (Service Commercial)	C-1 (Limited Commercial)
North	Public Golf Course	PF (Public Facilities)	C-V (Civic)
South	Retail, Auto Dealership	SC (Service Commercial)	C-1 (Limited Commercial)
		GC (General Commercial)	C-2 (General Commercial)
East	Retail, Townhomes	SC (Service Commercial)	C-1 (Limited Commercial)
		ML (Medium Low Density Residential)	R-PD8 (Residential Planned Development – 8 Units Per Acre)
West	Service Station without Auto Repair	SC (Service Commercial)	C-1 (Limited Commercial)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	NA
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District	X		Y
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

#### **Airport Overlay – 140-Foot Buffer**

The subject site is located within the 140-foot buffer of the Airport Overlay District. As the proposed structure is only 19 feet in maximum height, the restrictions of this district do not apply.

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.08*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	NA	30,796 SF	Y
Min. Lot Width	100 Feet	174 Feet	Y
Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Corner</li> <li>• Rear</li> </ul>	25 Feet 10 Feet 15 Feet 25 Feet	50 Feet 23 Feet 37.5 Feet 0 Feet	Y Y Y N*
Min. Distance Between Buildings	NA	50 Feet	Y
Max. Lot Coverage	50%	9.5%	Y
Max. Building Height	NA	19 Feet	Y
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y

\* **Subject of Variance (VAR-20464).**

<b>Landscaping and Open Space Standards</b>				
<b>Standards</b>	<b>Required</b>		<b>Provided</b>	<b>Compliance</b>
	<b>Ratio</b>	<b>Trees</b>		
Parking Area	1 Tree/ 6 Spaces	2 Trees	Y	N*
Buffer:				
North	1 Tree/30 Linear Feet 15-foot buffer width	5 Trees	6 Trees 15-Foot Buffer (10-Foot buffer along bus turnout lane)	N**
South	1 Tree/30 Linear Feet 8-foot buffer width	4 Trees	4 Trees 8-Foot Buffer	Y
East	1 Tree/30 Linear Feet 8-foot buffer width	4 Trees	0 Trees 0-Foot Buffer	N**
West	1 Tree/30 Linear Feet 15-foot buffer width	5 Trees	5 Trees 15-Foot Buffer	Y
<b>TOTAL</b>		18	15	N**

\* While the minimum number of trees is provided, Title 19.12 requires the placement of parking lot trees in fingers spaced one every six spaces. A condition of approval will require one additional parking lot landscape finger.

\*\* Waivers requested below.

***Pursuant to Title 19.10, the following parking standards apply:***

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Service Station without Automotive Repair	2,942 SF	1 space/ 250 SF	11	1	11	1	Y
TOTAL (including handicap)			12		12		Y

<b><i>Waivers</i></b>		
<b><i>Request</i></b>	<b><i>Requirement</i></b>	<b><i>Staff Recommendation</i></b>
No trees and no landscape buffer along rear property line.	4 Trees and 8-foot landscape buffer.	Approval
A ten-foot landscape buffer along the corner side perimeter in order to accommodate a bus turnout lane	15 foot landscape buffer.	Approval

## **ANALYSIS**

The proposed deviation from standards to allow a rear yard setback of zero feet where 20 feet is the minimum required will not have a significant effect on adjacent properties. The existing service station to be replaced with a new service station by the companion Site Development Plan Review is surrounded by the parking lot of an existing shopping center. However, while the service station is fully integrated into the shopping center, it is a separate legal parcel and not a part of a commercial subdivision. Therefore, while the proposed site plans simply moves the building farther back from the right of way and deeper into the parking lot to allow greater traffic flow, this places the building directly against a legal property line and therefore requires a Variance.

The need for this Variance is as much a result of improving the traffic flow on-site and on the adjacent Washington Avenue and Decatur Boulevard rights-of-way as it is the result of the improvements to the existing use. The subject site, as a legal parcel separate and distinct from the surrounding shopping center, is not sufficiently deep to bring the existing use into compliance with the City's traffic safety requirements. Under these circumstances, Title 19.18.070 indicates that a Variance is appropriate; therefore, staff recommends approval.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

Evidence of a unique circumstance has been presented, in that the applicant is attempting to alleviate a hardship which is not solely personal or self-created. The existing service station was built to traffic flow standards that fail to meet the current code requirements. By setting the building back to the rear property line, not only are on-site drive aisles improved, but traffic flow is improved further by the elimination and relocation of the existing driveways accessing Washington Avenue and Decatur Boulevard. Strict adherence to the Title 19 requirements for the 20-foot rear setback would prevent redevelopment of the site in its current use from compliance with traffic safety codes, and thereby is within the scope of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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## **ASSEMBLY DISTRICT**

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## **SENATE DISTRICT**

9

<b><u>NOTICES MAILED</u></b>	590 by City Clerk
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<b><u>APPROVALS</u></b>	0
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<b><u>PROTESTS</u></b>	0
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